

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA                     )  
                                                           )  
                  v.                                     ) CR. NO. 2:05cr290-MHT  
                                                           )  
EDDIE ANDREW GORDON                     )

UNITED STATES' RESPONSE TO SHOW CAUSE ORDER  
ISSUED AUGUST 1, 2006, DOC. No. 58

Comes now the United States of America by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and submits this response to the Court's show cause order issued on August 1, 2006.

The defendant has filed a motion in limine to redact from the indictment and exclude evidence or testimony regarding prior convictions of the defendant (Doc. No. 54), citing as authority, *Old Chief v. United States*, 519 U.S. 172 (1997). However, the defendant has not yet conceded his status as a convicted felon who was sentenced to a term exceeding one year under the laws of the State of Alabama. Instead, the defendant states that "once Mr. Gordon stipulates to his status on August 7, 2006<sup>1</sup>, as a previously convicted felon, the government is barred from offering any evidence or testimony about the date, nature or sentence received for that offense." (Doc. No. 54, p. 1). Until such time that the defendant stipulates to his status as a convicted felon to satisfy the necessary element that the government is required to prove beyond a reasonable doubt, the government requests that the court reserve its ruling on this issue.

The government is aware of the holding of *Old Chief* and will abide by that holding without the necessity of a court order. Notwithstanding, the government should not be hindered

---

<sup>1</sup> The defendant's motion refers to May 7, 2004, however the trial date is August 7, 2006.

in its trial preparation or the government's presentation of its case-in-chief awaiting the defendant's stipulation since the burden of proof is on the government to prove each element of a charged offense.

If the defendant intends to stipulate that he has been convicted of a felony punishable by a term of imprisonment in excess of one year, the government would have no need to present additional evidence regarding the details of the convicted offense. Therefore, the government requests that this court withhold its ruling until August 7, 2006.

Respectfully submitted on this 1<sup>st</sup> day of August 2006.

LEURA G. CANARY  
UNITED STATES ATTORNEY

/s/ Tommie Brown Hardwick  
TOMMIE BROWN HARDWICK  
Assistant United States Attorney  
One Court Square, Suite 201  
Montgomery, AL 36104  
Phone: (334) 223-7280  
Fax: (334) 223-7135  
E-mail: [tommie.hardwick@usdoj.gov](mailto:tommie.hardwick@usdoj.gov)  
ASB4152 W86T

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CR. NO. 2:05cr290-MHT
	)	
EDDIE ANDREW GORDON	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on August 1, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Kevin L. Butler.

Respectfully submitted,

LEURA G. CANARY  
UNITED STATES ATTORNEY

/s/ Tommie Brown Hardwick  
TOMMIE BROWN HARDWICK  
Assistant United States Attorney  
One Court Square, Suite 201  
Montgomery, Alabama 36104  
Telephone: (334) 223-7280  
Fax: (334) 223-7135  
E-mail: tommie.hardwick@usdoj.gov